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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/823,508  
Filing Date: March 29, 2001  
Appellant(s): FERNANDEZ ET AL.

**MAILED**

**MAY 29 2007**

**Technology Center 2600**

DENNIS S. FERNANDEZ, ESQ  
Reg. No. 34,160  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 03/22/2007 appealing from the Office action mailed 07/12/2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

US 5,59,577	Fan et al.	09-1999
US 6,091,956	Hollenberg	07-2000
US 6,301,480	Kennedy III, et al.	10-2001

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 68, 70, and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fan et al. (US 5,959,577) in view of Hollenberg (US 6,091,956).

Re claims 68, 70, 72, Fan teaches an Internet coupled network for electronically linking at least one fixed vendor processor (base station, 27 of fig. 1) to at least one mobile buyer processor (1 and 3 of fig. 1) comprising:

a storage (32 of fig. 2) and a processor (38 of fig. 2) for carrying out a method for transacting between vendor and buyer processor comprising the step of: determining a first location of a mobile buyer processor coupled to the Internet (col. 3); receiving from the mobile buyer processor a first transaction message (18 of fig. 13); sending to the mobile buyer processor a second transaction message indicating a first fixed vendor processor proximately disposed to the first location (col. 5, lines 1-51); wherein the second transaction message is caused to be sent adaptively by software that matches a mobile interest as maps, traffic situation in particular area, position of service stations and destination of interest, with a fixed vendor service or product ms position of service stations

by using past movement or location of the mobile buyer, thereby local transaction efficiently between the mobile buyer and a nearby vendor (32, 36, 38 of fig. 2, e.g. the processing unit (38) process a mobile interest from database storage (32) based upon the request by the user, wherein the processing unit is able to locate a nearby vendor for the user interest; see also col. 4, lines 42-55).

Moreover, Fan further teaches the second transaction message indicating real-time inventory (update gas station, food, or hotel services) or product of interest to the mobile buyer available at the nearby vendor (27, 32 of fig. 2), the software providing by the vendor processor (38 of fig. 2) to a video surveillance of the mobile buyer (Under periodic update mode 53, at step 55, mobile unit 1 waits for the next scheduled position update. At the time of a scheduled update, i.e., at step 58, a mobile unit (1) calls to establish network service connection 10 for accessing data network 27 and transmits to data processing station 18 an outbound data package. Upon receiving the outbound data package, data processing station 18 responds to the operator's query by searching database 32, updating a map retrieved from map storage 63, and transmitting the map to mobile unit 1 an inbound data package, see figs. 12 and 13). It is interpreted that the real time inventory of service of interest to the mobile buyer available at the nearby vendor is the inbound area that provides the services of gas station, food, or hotel are available to the mobile buyer.

Furthermore, Fan teaches the second transaction message (the request for second inbound area) indicating real-time inventory of service (the gas station, food, or hotel is available in the inbound area at real time) or product of interest to the mobile buyer available at the nearby vendor, the software providing access by the vendor processor to a video surveillance of the

mobile buyer (fig. 2, elements 18, 32 and 38; see also figs. 12 and 13, the mobile user selects gas station (request the inbound map) the map with gas station are shown on the LCD at the real time, called real time inventory of service).

Fan further suggests the software being partitioned modularly or layered hierarchically in a first core component comprise a database (18 of fig. 2, e.g. data processing station may also perform a database search for travel-related information, such as directions to a gasoline station); and a next function component comprising a transaction module (144 of fig. 5; Note in the figure 5, a wireless modem circuit (146) provides the outbound data package to data network (27 of fig. 2) over wireless telephone network interface (148) via service connection (10 of fig. 1).

Depending on the application, control section (133) may or may not be programmed for receiving an inbound data package from wireless transceiver (144)); whereby one or more software agent (figs. 3, 4, 6, 7, 12, and 13, e.g. the Internet is used as data network 27 (FIG. 1), the necessary hardware and software for implementing a monitor unit are readily available. Most computers that have the ability to access the Internet, together with a standard web browser, can be used to access data processing station 18 to perform the functions of the monitor units described above. Since a monitor unit can receive a map from data processing station 18, such as the map displayed on LCD 212 in FIG. 13, which can be displayed using conventional graphics software, the monitor unit is not required to be equipped with any special map software or a map database) functions cooperatively with or uses the first core or next core component to enable extended or integrated network transaction between vendor (gas station) and buyer processors (1 of fig. 1; Note FIG. 13, the response from data station 18 is received in mobile unit 1 through transceiver/antenna assembly 208 and displayed on LCD 212. In this instance, the query sent to

data station 18 corresponds to the selection of "gas station". In FIG. 13, data processing station 18 returns to mobile unit 1, in an inbound data package, a map, which is displayed on LCD 212, showing the vicinity of mobile unit 1. Mobile unit 1's position is indicated on LCD 212 by a marker 225. The locations of several gas stations, indicated by markers 220 are also displayed).

However, Fan does not particularly suggest or teach location based pricing of service or product of interest to the mobile buyer available at the nearby vendor and thereby automatically enabling video surveillance of mobile buyer to be performed automatically by the software having personal image visual recognition ability automatically to provide computer implemented visual reorganization of a personal image such mobile buyer as claimed.

Hollenberg teaches location based pricing of service or product of interest to the mobile buyer available at the nearby vendor (col. 9, lines 15-23, e.g. an information system with which a shopper can better serve himself or herself by, for example, determining product availability by querying a store's inventory, determining the price of products using a handheld multiple-use electronic device which includes a bar-code reading device, and electronically paying for the selected merchandise without requiring assistance from store personnel) thereby automatically enabling video surveillance of mobile buyer to be performed automatically by the software having personal image visual recognition ability automatically to provide computer implemented visual reorganization of a personal image such mobile buyer (Col. 29, line 60-col. 30, line 3, Noted wherein said user information (request or search) and other information (captured image, bar code information) includes communication with others of users of mobile computers (fig. 5, e.g. 19c, 19d) and sources and information pertaining to a search of radio sources, including commercial offers of goods and services and user identification (personal image visual

recognition) and credit-related information pertinent to commercial agreements (the camera can take a picture of user and transmit to the computer for personal image visual identification of the mobile buyer, col. 8, lines 7-24) whereby individuals among users of mobile computers can locate others of mobile computer with radios and topical events, people, products, and services and arrange for payment and fulfillment of commerce efficiently). Hollenberg suggests the software being partitioned modularly or layered hierarchically in a first core component comprise a database (col. 23, lines 37-63); and a next function component comprising a transaction module (col. 23, line 64-col. 24, line 28); whereby one or more software agent functions cooperatively with or use the first core or next core component to enable extended or integrated network transaction between vendor and buyer processors (fig. 13 and 14).

Therefore, taking the teachings of Fan and Hollenberg a whole, it would have been obvious to one of ordinary skill in the art to incorporate the teachings of Hollenberg into the Internet coupled network of Fan for to update the location based pricing of service and able view or observe the image of the person of mobile buyer.

Doing so would allow many stores are cutting costs by reducing staffing and merchandise inventories. Shoppers searching for price or stock information in a store must now spend more time searching the isles for help in finding the merchandise they seek. Clearly, useful time-critical and specific information about stores' offerings, merchandise information, is increasingly out of reach.

3. Claims 69, 71, and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fan et al. (US 5,959,577) in view of Hollenberg (US 6,091,956) as applied to claims 68, 70, and 72, and further in view of Kennedy, 111 et al. (US 6,301,480).

Re claims 69, 71, and 73, the combination of Fan and Hollenberg teaches the mobile detector and Hollenberg suggests mobile computer (fig. 11) to access the online Auto Services (6u of fig. 11) so that the user or client easily make an appointment for any kind of auto services in advance; the combination of Fan and Hollenberg does not particularly teach a single chip sensor coupled to a mobile buyer to determine that the vehicle has a flat tire or airbag deployment.

However, Kennedy teaches a mobile communication unit (12 of fig. 1) comprises an accelerometer and personal health sensor, and any other suitable sensors (e.g. airbag sensor, flat tire sensor) that generate information on the status of mobile unit, a flat tire or airbag deployment (12 of fig. 1; see col. 3, lines 15-18).

Therefore, taking the combined teachings of Fan, Hollenberg, and Kennedy as a whole, it would have been obvious to one of ordinary skill in the art to incorporate the teachings of Kennedy into the combined system of Fan and Hollenberg in order to provide the determined information on the status of the mobile unit (car, truck) to the remote location (16 of fig. 1).

Doing so would provide the advantages of the system include the adaptation of the system to provide mobile units are associated with cars, trucks, boats, barges, airplanes, cargo holders, persons or other mobile items such as ambulance vehicle that desire a selection of services. These services include emergency services, roadside assistance, information services

(e.g., directions, news and weather reports, financial quotes, etc.), or other as suggested by Kennedy.

**(10) Response to Argument**

The appellant argued that neither Fan nor Hollenberg teaches or suggests transmitting between the mobile buyer and nearby vendor, transaction messages indicating real-time inventory, and software providing access by the vendor processor to a video surveillance of the mobile buyer, with such software having adaptive personal-image recognition ability automatically to provide computer-implemented visual recognition indication of a personal image of such mobile buyer, and to ultimately determine information on the mobile buyer vehicle, pages 9-12 of the appeal brief.

The examiner respectfully disagrees with the appellant. It is submitted that Fan discloses transmitting between the mobile buyer and nearby vendor (1, 3, and 27 of fig. 1), transaction messages indicating real-time inventory (Note update gas station, food, and hotel services are considered messages indicating real-time inventory, and how many gas stations within the map area , fig. 13) or product of interest (Food of fig. 12, Food is considered as product of interest) to the mobile buyer available at the nearby vendor (gas-stations of fig. 13). Fan suggests a message including text, graphic, and picture file exchange between the vendor and mobile unit (col. 12, lines 60-65).

Hollenberg teaches software (fig. 13, Note SERVICE PROVIDER COMPUTER CONTROL PROGRAM is considered a software) providing access by the vendor processor to a video surveillance of the mobile buyer (col. 23, lines 12-36; 90-95 of fig. 13), with such software having adaptive personal-image recognition ability automatically to provide computer-

implemented visual recognition indication of a personal image of such mobile buyer (col. 8, lines 7-24, Note video image of a person can be transmitted to the remote location for visual recognition), and transaction messages indicating real-time inventory (col. 9, lines 15-20).

Moreover, Kennedy teaches the mobile communication unit (12 of fig. 1) comprises an accelerometer and personal health sensor, and any other suitable sensors (e.g. airbag sensor, flat tire sensor) that generate information on the status of mobile unit, a flat tire or airbag deployment (12 of fig. 1; see col. 3, lines 15-18) as to ultimately determine information on the mobile buyer vehicle. In view of the discussion above, the claimed features are unpatentable over the combination of Fan, Hollenberg, and Kennedy

The appellant argued that the combination of Fan, Hollenberg, and Kennedy has not established a *prima facie* case of obviousness and the rejections are not support by concrete evidence of record, pages 9-12 of the appeal brief.

The examiner respectively disagrees with the appellant. It is submitted that Fan teaches the system for communicating between the mobile unit to the fixed vendor (3 and 27 of fig. 1), wherein the mobile unit (3 of fig. 1) sending the first transaction to the fixed vendor (27 of fig. 1) and the fixed vendor transmits the second transaction to the mobile (3 of fig. 1) indicating the real-time inventory (gas-stations within area, fig. 13).

Hollenberg teaches the mobile unit (fig. 4) communicates with the stationary unit (30 of fig. 3), and the user is able to transmit the captured video image (user's image) to a remote location (col. 8, lines 7-24) as corroborating visual information and access to the stationary unit (30 of fig. 3) to check or purchase merchandise (col. 9, lines 10-22).

Kennedy teaches a mobile unit (12 of fig. 1) that receives information from alarms, odometers, speedometers, engine sensors, accelerometers, temperature gauges, humidity gauges, personal health sensors, or any other suitable sensors that generate information on the status of mobile unit (12 of fig. 1) and transmit the received information to a remote location (18 of fig. 1).

Since Fan, Hollenberg, and Kennedy teach the communications between the fixed vendor and the mobile unit and suggest various other substitutions, modifications, changes, and omissions may be made (Hollenberg, col. 29, lines 19-23; Fan, col. 11, lines 32-33; and Kennedy, col. 9, lines 40-45), this is evidence to one of ordinary skill in the art to combine the suggested teachings of Fan, Hollenberg, and Kennedy to make obvious the claimed invention.

It is noted that not only the specific teachings of a reference but also reasonable inferences which the artisan would have logically drawn therefrom may be properly evaluated in formulating a rejection. In re Preda, 401 F.2d 825, 159 USPQ 342 (CCPA 1968) and In re Shepard, 319 F.2d 194, 138 USPQ 148 (CCPA 1963). Skill in the art is presumed. In re Sovish, 769 F.2d 738, 226 USPQ 771 (Fed. Cir. 1985). Furthermore, artisans must be presumed to know something about the art apart from what the references disclose. In re Jacoby, 309 F.2d 513, 135 USPQ 317 (CCPA 1962). The obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art without any specific hint or suggestion in a particular reference. In re Bozek, 416 F.2d 1385, 163 USPQ 545 (CCPA 1969)). Every reference relies to some extent on knowledge of persons skilled in the art to complement that which is disclosed therein. In re Bode, 550 F.2d 656, 193 USPQ 12 (CCPA 1977).

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Tung Vo

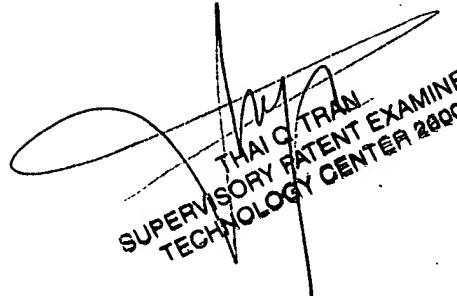
  
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